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INTERSTATE COMMERCE COMMISSION

LOUISVILLE AND NASHVILLE RAILROAD COMPANY

1972 RAILROAD EQUIPMENT FINANCING

**CONDITIONAL SALE AGREEMENT
AGREEMENT AND ASSIGNMENT**

dated as of April 1, 1972

**EXHIBIT B
TO
FINANCE AGREEMENT**

CONDITIONAL SALE AGREEMENT

THIS AGREEMENT, dated as of April 1, 1972, by and among General Motors Corporation (Electro-Motive Division), a corporation of the State of Delaware (hereinafter sometimes called "EMD") and General Electric Company, a corporation of the State of New York (hereinafter sometimes called "GE") (EMD and GE being hereinafter each sometimes called the Vendor or Manufacturer, as more particularly set forth in Section 21 hereof) and Louisville and Nashville Railroad Company, a corporation of the Commonwealth of Kentucky (hereinafter sometimes called the "Vendee"),

WITNESSETH, THAT:

In consideration of the mutual promises, covenants and agreements hereinafter set forth, the parties hereto do hereby agree as follows:

1. **CONSTRUCTION AND SALE.** Each Manufacturer hereby agrees to construct, sell and deliver to the Vendee, and the Vendee hereby agrees to buy from the Manufacturer and to accept delivery and pay for, as hereinbelow provided, the locomotives described herein below, (such locomotives hereinafter sometimes referred to as "Equipment").

(i) Locomotives to be constructed by EMD: Ten (10) 2000 H. P. Model GP38AC-2 4-axle diesel-electric road locomotives, to bear Vendee's road numbers 4060 through 4069, and to be constructed in accordance with EMD Specification 8090, as supplemented and as revised and modified from time to time by agreement between EMD and Vendee (such specification, supplements and modifications, if any, hereinafter referred to as "Specifications").

(ii) Locomotives to be constructed by GE: Thirty (30) 3000 H. P. Model U30C 6-axle diesel-electric road locomotives, to bear Vendee's road numbers 1470 through 1499, and to be constructed in accordance with GE Specification 3390C, as revised and modified from time to time by agreement between GE and Vendee (such speci-

fication, and modifications, if any, hereinafter referred to as "Specifications").

Each unit of Equipment will be standard gauge rolling stock constructed in accordance with the applicable Specifications. There will be incorporated in all the locomotives constructed by EMD and in eighteen of the locomotives constructed by GE a limited number of used components which will be remanufactured by the Manufacturers and will be the equivalent of new current components. The remaining twelve locomotives to be constructed by GE will be new units of Equipment.

Vendee represents and warrants that the Specifications including the design, quality and component parts of the Equipment will conform to all Department of Transportation and Interstate Commerce Commission requirements and specifications and to all standards recommended by the Association of American Railroads reasonably interpreted as being applicable to railroad equipment of the character of the Equipment as of the date of this Agreement.

(A) DELIVERY. Each Manufacturer agrees to deliver the Equipment to be constructed by it, free of all liens, encumbrances and claims of any nature by or in favor of any person or party and subject only to the reservation of title thereto by such Manufacturer in accordance with the provisions of this Agreement, as follows:

As to EMD, the locomotives shall be delivered to Vendee at such point or points as Vendee may hereafter specify in writing, freight charges to be paid by Vendee; delivery of the locomotives to begin approximately April 12, 1972, and to be completed on or about April 30, 1972.

As to GE, the locomotives shall be delivered to Vendee on its tracks at such point or points as Vendee may hereafter specify in writing, freight charges to be paid by Vendee; delivery of the locomotives to begin approximately June 1, 1972, and to be completed on or about August 31, 1972.

Construction and delivery of the Equipment, however, shall be subject to rescheduling of shop space and delays due to strikes, differences with workmen, labor troubles, acts of God, Governmental acts and regulations, war or war conditions, riots or civil commotion, sabotage, fires, floods, explosions or other accidents, or to delays of carriers or of sub-contractors or in the receipt of materials, or to reasonable delays occasioned by or arising in connection with the construc-

tion of equipment or products for a Manufacturer's other customers which are contracted to be constructed at such Manufacturer's plant prior to the construction of the Equipment covered by this Agreement, or to any other cause or causes (whether or not of the same general character as those herein specifically enumerated) beyond a Manufacturer's reasonable control. Neither Manufacturer shall be obligated to deliver any unit of Equipment hereunder should Vendee file prior to delivery thereof a petition for reorganization or debt adjustment under Section 77 of the Bankruptcy Act.

Notwithstanding the preceding provisions of this Section 1, and in accordance with Section 2 (B) hereof, any locomotives not delivered, accepted and settled for on or before October 31, 1972, shall be excluded from this Agreement and not included in the term "Equipment" as used in this Agreement.

Each Manufacturer shall give the Vendee full opportunity to inspect each unit of Equipment during the construction thereof at its plant. Upon completion of each of the units of Equipment, Vendee shall arrange for final inspection thereof and shall have its inspector execute, in six copies, the usual form of certificate of inspection covering all units of Equipment found to be completed in accordance with the Specifications. Each such certificate with respect to the units of Equipment covered thereby shall be final and conclusive evidence that such units of Equipment conform in workmanship, material, construction and in all other respects to the requirements and provisions of this Agreement. Vendee shall arrange also for acceptance of each unit of Equipment by a duly authorized agent upon arrival thereof at the place of delivery and such agent shall execute, in six copies, a certificate of acceptance of such units of Equipment stating that the unit or units of Equipment covered by such certificate have been delivered to and accepted by him on behalf of the Vendee as conforming in all respects to the requirements and provisions of this Agreement. Neither such certificate of inspection nor such certificate of acceptance shall relieve the Manufacturer of its warranties covering material and workmanship contained in Section 7 hereof.

(B) PURCHASE PRICE.

The purchase price of each unit of Equipment shall be determined as hereinafter provided, namely:

As to EMD, the estimated purchase price of each locomotive is Two Hundred Fifty-One Thousand Dollars (\$251,000.00), f.o.b. EMD's plant at McCook, Illinois.

As to GE, the estimated purchase price of each locomotive is Three Hundred Twenty-One Thousand Five Hundred Dollars (\$321,500.00), f.o.b. GE's plant at Erie, Pennsylvania.

In each case, the estimated purchase price is subject to such increase or decrease as may be agreed to by the Manufacturer and Vendee. The term "Purchase Price" as used herein shall mean the estimated purchase price as so increased or decreased.

For the purpose of making settlement, the Equipment shall be gathered into groups delivered to and accepted by Vendee (each such group being hereinafter called a "Group"). The locomotives shall be delivered in not more than three Groups. The first Group shall consist of 10 locomotives and the second and third Groups shall consist of 15 locomotives each.

2. PAYMENT OF PURCHASE PRICE. (A) The Vendee hereby promises to pay the Purchase Price of each unit of Equipment accepted as hereinabove provided, in the following manner:

That part of the Purchase Price, as stated in the invoice therefor, which is in excess of the Deferred Purchase Price, hereinafter specified, shall be paid in cash to the Manufacturer by the Vendee, upon receipt by Vendee of such invoice.

As to each locomotive to be constructed by EMD, Two Hundred Fifty Thousand Nine Hundred Fifty Dollars (\$250,950) of the Purchase Price, being the Deferred Purchase Price, shall be paid in thirty (30) equal consecutive semi-annual installments of \$8,365 each.

As to each locomotive to be constructed by GE, Three Hundred Twenty-One Thousand Four Hundred Fifty Dollars (\$321,450) of the Purchase Price, being the Deferred Purchase Price, shall be paid in thirty (30) equal consecutive semi-annual installments of \$10,715 each.

In the event the Purchase Price of any locomotive shall be less than the Deferred Purchase Price therefor (such difference herein called the "Excess"), the Deferred Purchase Price of such locomotive

shall be reduced by such Excess and thereupon the Purchase Price of such locomotive shall be and become the Deferred Purchase Price thereof for every purpose of this Agreement and all installments with respect to such Deferred Purchase Price shall be ratably reduced.

The thirty equal consecutive semi-annual installments of Deferred Purchase Price in respect of each unit of Equipment shall be due and payable on October 1, 1972 and on the first day of April and October of each year thereafter to and including April 1, 1987. Said semi-annual installments of the Deferred Purchase Price shall be serially numbered 1 through 30, inclusive.

In respect of each delivered and accepted unit of Equipment, there shall be due and payable quarterly, as hereinafter provided (i) interest at the prime rate of The First National Bank of Birmingham and First National City Bank, respectively, plus $\frac{1}{4}$ of 1% per annum on each Bank's respective interest in the unpaid Deferred Purchase Price for each unit of Equipment represented by the semi-annual installments of the Deferred Purchase Price serially numbered 1 through 15 from the respective Closing Date, as hereinafter defined, of such unit of Equipment, and (ii) interest at the fixed rate of 8% per annum on the unpaid Deferred Purchase Price of each unit of Equipment represented by the semi-annual installments of the Deferred Purchase Price serially numbered 16 through 30, from the respective Closing Date of such unit of Equipment.

For purposes hereof, the "prime rate" of The First National Bank of Birmingham is defined as the lowest rate in effect by said Bank to substantial and responsible borrowers for short-term loans, and the "prime rate" of First National City Bank is the base rate of interest charged by said Bank on ninety-day loans to substantial and responsible borrowers. In the event that, from time to time, the prime rate shall be changed by either of said Banks after the first payment of interest, all subsequent quarterly payments of interest shall be calculated based on the respective prime rate of The First National Bank of Birmingham and First National City Bank in effect on the due date of the immediately preceding quarterly interest payment.

All interest provided for in this Agreement shall be calculated on the basis of a 360-day year of twelve 30-day months. The first payment of interest with respect to each unit of Equipment shall become due and payable on October 1, 1972, irrespective of whether any or all

of the units of Equipment have been settled for by that date, and shall cover interest from the "Closing Date" (hereinafter defined) for such unit of Equipment. Subsequent payments of interest shall be due and payable quarterly on the first day of January, April, July and October of each year thereafter until the entire Deferred Purchase Price of such unit of Equipment shall have been paid in full.

The term "Closing Date" with respect to each Group shall mean such date (on or prior to October 31, 1972), not more than 10 business days following presentation by the Manufacturer to the Vendee of the invoice and the certificate of acceptance for such Group, as shall be fixed by the Vendee by written notice delivered to such Manufacturer at least 3 business days prior to the Closing Date designated therein. The term "business days" as used herein means calendar days, excluding Saturdays, Sundays and holidays.

If payment of any installment, or portion thereof, of the Deferred Purchase Price of any unit of Equipment, or of interest, determined as hereinabove provided, be made after its due date, interest thereon shall be paid (to the extent permitted by law) with respect to the semi-annual installments of the Deferred Purchase Price serially numbered 1 through 15, at the prime rate of The First National Bank of Birmingham and First National City Bank, on their respective interests in such installment, or portion thereof, of the Deferred Purchase Price, plus $1\frac{1}{4}\%$ per annum, from said due date until payment be made therefor, and with respect to the semi-annual installments of the Deferred Purchase Price serially numbered 16 through 30 at the rate of nine percent (9%) per annum from said due date until payment be made therefor.

(B) It is mutually agreed that, in the event delivery and acceptance of any of the units of Equipment is delayed beyond October 31, 1972, any such unit of Equipment shall be excluded from the terms and provisions of this Agreement. Any such unit or units of Equipment so excluded from the terms and provisions of this Agreement shall not be included in the term "Equipment" as used in this Agreement. In the event of any such exclusion, the Vendee and the Vendor shall execute an agreement supplemental hereto limiting this Agreement to the Equipment delivered and accepted hereunder.

(C) The Vendee shall not have the privilege of prepaying any installment of the Deferred Purchase Price with respect to any unit of Equipment prior to the date that it becomes due hereunder, except as provided by Section 6 hereof.

(D) All payments provided for in this Agreement shall be made by the Vendee in such coin or currency of the United States of America as at the time of payment is legal tender for the payment of public and private debts.

(E) Whenever any payment to be made under this Agreement shall be stated to be due on a Saturday, Sunday or a holiday under the laws of the place of payment, such payment shall be made on the next succeeding business day.

3. TITLE TO THE EQUIPMENT. Each Vendor shall and hereby does retain the full legal title to, and property in, all of the units of Equipment constructed by it until the Vendee shall have made all of the payments, and shall have kept and performed all of the covenants in this Agreement provided to be made, kept or performed by the Vendee, with respect to any such units of Equipment, notwithstanding the delivery of such unit or units of Equipment to, and the right to the use thereof by, the Vendee as herein provided.

The Vendee covenants and agrees that it will cause each unit of Equipment to be kept numbered with the assigned road number and to be kept plainly marked by "plating" or stencilling upon both sides of the unit of Equipment with the name of the Vendor, in letters not less than one inch in height, followed by the word "Owner" or "Owners" or other appropriate words designated by the Vendor, and the Vendee agrees that it will not place any unit of Equipment in operation or exercise any control or dominion over any unit of Equipment until it shall have been so marked. Vendee covenants and agrees that it will not change the number assigned to or placed upon any unit of Equipment except with the consent of the Vendor and in accordance with a statement of new numbers previously filed with the Vendor by the Vendee, and filed, recorded or deposited in all public offices where this Agreement will have been filed, recorded or deposited; *provided, however*, that, in addition to such identifying number, the Vendee may cause to be placed on each unit of Equipment in such position as not to be confused with the identifying number thereon a reporting number identifying each unit of Equipment for reporting and operating purposes, which reporting number may be changed by the Vendee from time to time without the consent of the Vendor or the filing, recording or depositing of any instrument.

Vendee agrees not to place or permit to be placed upon any unit of Equipment or any replacement thereof any marks, signs or words

which might be interpreted as a claim of ownership of the unit of Equipment by any person, firm or corporation other than the Vendor; except, however, Vendee may cause each unit of Equipment to be lettered "Louisville and Nashville Railroad Company", or "L&N.R.R. Co.", or in some other appropriate manner for convenience of identification of Vendee's right to use such unit of Equipment.

When and only when the Vendors have been paid the full Purchase Price for all of the Equipment, together with interest and any and all other payments as herein provided, and all of the Vendee's covenants and conditions herein contained have been performed by the Vendee, absolute right to possession of, title to and property in, all of the Equipment shall pass to and vest in the Vendee without further transfer or action on the part of the Vendors. Upon full payment as aforesaid, Vendors will, if requested by Vendee to do so, execute, acknowledge and deliver to Vendee an instrument whereby the Vendors will acknowledge satisfaction of all payments required to be made by Vendee by any provision of this Agreement, and will transfer and convey to Vendee all right, title and interest in or to the Equipment.

4. TAXES, etc. All payments by Vendee hereunder shall be free of expense to Vendors for collection or other charges, and no deductions shall be made therefrom of the amount of any federal, state or other taxes, assessments or governmental charges (other than federal income taxes or net income taxes imposed by or under authority of any state by reason of the residency in such state of a Vendor, any assignee of a Vendor's interest in this Agreement or any participant in any such assignment) levied or imposed directly upon this Agreement or upon any assignment of or participation in any assignment of this Agreement, or which may be levied or imposed upon the Equipment, or the acquisition thereof, or upon the sale, shipment, delivery or use thereof, all of which expenses and taxes the Vendee assumes and agrees to pay in addition to the above mentioned Purchase Price of said Equipment. Vendee hereby specifically agrees also to pay to Vendors in addition to the purchase price of the Equipment, all sales taxes, or like taxes or charges which may be assessed, levied or imposed upon or with respect to the acquisition, sale or delivery to or use by Vendee of the units of Equipment, or any of them, and which Vendors may be legally required to pay to any state or municipality or to the United States or other government.

Vendee shall also pay promptly all taxes, assessments and governmental charges which from time to time may be imposed upon the Equipment, or the earnings arising therefrom, or the operation thereof, or upon Vendors by reason of their ownership thereof, by any government of any country, state or political subdivision thereof in which the Equipment may be located or which shall have jurisdiction over the Equipment or any part thereof, and Vendee agrees at all times to keep the Equipment free and clear of all liens and encumbrances whatsoever (subject to the provisions of Section 17 of this Agreement), other than the lien created by this Agreement and the lien of taxes not yet due or payable; *provided, however*, that Vendee shall not be required to pay any tax, assessment or other governmental charge so long as the Vendee shall contest in good faith and by appropriate legal proceedings the validity of such tax, assessment or other governmental charge and the non-payment thereof does not, in the opinion of Vendors, adversely affect the property or rights of the Vendors hereunder.

5. COMPLIANCE WITH LAWS, RULES AND REGULATIONS. Vendee shall comply in all respects with all laws of the United States of America and of the states in or through which the Equipment may be operated, covering the use, operation or maintenance of the Equipment; with the interchange rules of the Association of American Railroads; and with the lawful rules, with respect to the Equipment, of the Department of Transportation, the Interstate Commerce Commission, and of every other legislative, administrative or judicial body exercising any power or jurisdiction over the Equipment; and in the event that said laws or rules require any alterations of any of the units of Equipment, or any additional equipment or appliances thereon, Vendee shall conform therewith at its own expense and shall maintain the Equipment in proper condition for operation under such laws and rules during the life of this Agreement and any supplement thereto; *provided, however*, that Vendee shall have the right to contest in good faith and by appropriate legal proceedings any such laws or rules, so long as such contest does not, in the opinion of Vendors, adversely affect the property or rights of the Vendors hereunder.

6. MAINTENANCE AND CASUALTY OCCURRENCES. The Vendee covenants and agrees that it will at all times after the delivery of the Equip-

ment, maintain and keep said Equipment in good order and repair, at its expense, and shall bear the risk of, and shall not be released from its obligations hereunder in case of, any and all damage, loss or destruction or wearing out of any units of said Equipment from whatever cause arising.

The Vendee shall promptly replace the units of Equipment, or any of them, or any parts thereof, at its own cost, except as otherwise herein provided, if any unit or units of Equipment shall be worn out, lost, destroyed or irreparably damaged from any cause whatever during the continuance of this Agreement (hereinafter sometimes called "Casualty Occurrences"), with other standard gauge rolling stock, other than passenger, special purpose or work equipment, put into service no earlier than April 1, 1972, equal in value to the depreciated value and of substantially as good material or construction as the units of Equipment subject to Casualty Occurrences and shall promptly notify the Vendors of such replacement by the statement of an officer of the Vendee setting forth the description and road numbers of the unit or units of Equipment to be used in replacement, together with (a) an opinion of counsel for the Vendee that the unit or units of Equipment used in replacement are equal in value to the depreciated value of the unit or units of Equipment replaced, that title to the unit or units of Equipment used in such replacement has been transferred to the Vendor free and clear of all liens of every kind, and that a supplemental agreement subjecting said unit or units of Equipment to the provisions of this Agreement has been duly filed, recorded, or filed for record pursuant to the provisions of Section 14 of this Agreement, and (b) an executed counterpart of a bill of sale transferring title to such replacing unit or units of equipment to the Vendor. Any and all such replacement of unit or units of equipment and of any parts shall constitute accessions to the Equipment and shall be subject to all of the terms and conditions of this Agreement as though part of the original Equipment delivered hereunder and included in the word "Equipment" as used in this Agreement. The Vendee shall cause any such unit or units of Equipment acquired in replacement to be plainly marked by "plating" or stencilling as provided for in Section 3 of this Agreement.

At the election of the Vendee, and in lieu of such replacement as above mentioned, Vendee shall pay to the Vendor on October 1 in each year commencing October 1, 1973, a sum equal to the aggregate unpaid

balance of the Deferred Purchase Price of all such units of Equipment subjected to Casualty Occurrences together with interest accrued on such unpaid balance to the date of payment; *provided, however*, that from time to time in any twelve month period commencing on any October 1 when the aggregate unpaid balance of the Deferred Purchase Price of such units of Equipment subjected to Casualty Occurrences (exclusive of units of Equipment which have been replaced or with respect to which payment shall have been made pursuant to this Section 6) shall exceed \$100,000, Vendee, within 30 days of such event, shall pay to the Vendor a sum equal to the aggregate unpaid balance of the Deferred Purchase Price of such units of Equipment, together with interest accrued on such unpaid balance to the date of payment. Any payment pursuant to this paragraph shall be applied to installments thereafter falling due, in the inverse order of their maturity, but without premium.

Notwithstanding the provisions of the two preceding paragraphs of this Section 6, the Vendors may, if requested by the Vendee so to do, waive the requirements provided herein for replacing such unit or units of Equipment or payment of a sum equal to the then unpaid balance of the Deferred Purchase Price applicable to such unit or units of Equipment. Any such waiver, however, shall apply only to the specific instance for which the same is given.

Should any such worn out, lost, destroyed or irreparably damaged unit or units of Equipment be replaced, or if payment be made therefor, or if waiver of such requirements for either payment or replacement be given, all as in this Section hereinabove provided, the Vendors shall, upon written request by the Vendee, execute an agreement of release, or other suitable instrument, relinquishing any interest which Vendors may hold in or to the said unit or units of equipment so worn out, lost, destroyed or irreparably damaged.

The Vendee agrees to furnish to the Vendors upon request, from time to time, as long as this Agreement shall be in force, an accurate inventory of the Equipment in actual service, the condition of the Equipment in actual service, the condition of the Equipment and the numbers and the description of such units of Equipment as may have suffered Casualty Occurrences. The Vendee shall promptly and fully inform the Vendors of any loss, material damage to, the wearing out or destruction of, any unit of Equipment.

The Vendors shall have the right, but shall be under no obligation, to inspect the Equipment at any reasonable time or times during the continuance of this Agreement.

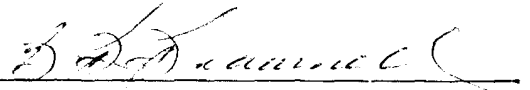
7. INDEMNITIES AND GUARANTIES. The Vendee hereby covenants and agrees to save, indemnify and keep harmless the Vendors from and against all losses, damages, injuries, claims, and demands whatsoever, regardless of the cause thereof, and expenses in connection therewith, including counsel fees, arising out of retention by the Vendors of title to the Equipment, or out of the use or operation of the Equipment during the life of this Agreement, except as herein provided. With respect to such losses, damages, injuries, claims and demands, said covenant of indemnity shall continue in full force and effect for the benefit of the Vendors notwithstanding the full payment of the Purchase Price and the conveyance of the Equipment, as provided in Section 3 hereof, or the termination of this Agreement in any manner whatsoever, or the damage to or the loss or destruction of any unit or units of Equipment.

Each Vendor warrants that the units of Equipment to be constructed by it are of the kind and quality described in, or will be built in accordance with the requirements, Specifications and standards set forth or referred to in Section 1 hereof and are suitable for the ordinary purposes for which such Equipment is used, and warrants each such unit of Equipment to be free from defects in material and workmanship which may develop under normal use and service within two years from date of delivery of such unit or before such unit has been operated 250,000 miles, whichever event shall first occur. Each Vendor on the units of Equipment constructed by it agrees to correct such defects, which examination shall disclose to its satisfaction to be defective, by repair or replacement F.O.B. factory and such correction shall constitute fulfillment of the Vendor's obligation with respect to such defect under this warranty.

THE WARRANTIES HEREOF ARE EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND OF ALL OTHER OBLIGATIONS OR LIABILITIES ON THE PART OF THE RESPECTIVE VENDORS, EXCEPT FOR THEIR OBLIGATIONS UN-

GENERAL MOTORS CORPORATION
(Electro-Motive Division)

(Corporate seal)

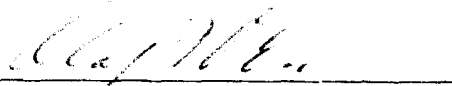
By 
Vice President

ATTEST:


Assistant Secretary

GENERAL ELECTRIC COMPANY

(Corporate seal)

By 
General Manager
Locomotive Products Department

ATTEST:

Attesting Secretary


LOUISVILLE AND NASHVILLE
RAILROAD COMPANY

(Corporate seal)

By 
Vice President


ATTEST:


Assistant Secretary

STATE OF ILLINOIS }
COUNTY OF COOK } ss:

The undersigned, a Notary Public for the State and County afore-said, certifies that, on the date hereinafter stated, personally appeared before me in said State and County, **B. B. BROWNELL**, to me personally known, who thereupon produced before me the foregoing instrument, and who, being by me duly sworn, says that he is Vice President of General Motors Corporation (Electro-Motive Division), a corporation, that the seal affixed to said instrument is the corporate seal of said corporation, that said instrument was signed and sealed by him on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution and delivery of said instrument was the free act and deed of said corporation.

Witness my hand and notarial seal, this *21* day of *May*, 1972.


Notary Public
Cook County, Illinois

My Commission expires October 28, 1975

(NOTARIAL SEAL)

COMMONWEALTH OF PENNSYLVANIA }
COUNTY OF ERIE } ss:

The undersigned, a Notary Public for the Commonwealth and County aforesaid, certifies that, on the date hereinafter stated, personally appeared before me in said Commonwealth and County, Olaf Veal, to me personally known, who thereupon produced before me the foregoing instrument, and who, being by me duly sworn, says that he is General Manager — Locomotive Products Department, of General Electric Company, a corporation, that the seal affixed to said instrument is the corporate seal of said corporation, that said instrument was signed and sealed by him on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution and delivery of said instrument was the free act and deed of said corporation.

Witness my hand and notarial seal, this 25th day of May, 1972.

Anthony J. Harkness

Notary Public

Commonwealth of Pennsylvania

My Commission expires

(NOTARIAL SEAL)

NOTARY PUBLIC, PENNSYLVANIA
 My Commission Expires May 1, 1975

COMMONWEALTH OF KENTUCKY }
COUNTY OF JEFFERSON } ss:

The undersigned, a Notary Public for the Commonwealth and County aforesaid, certifies that, on the date hereinafter stated, personally appeared before me in said Commonwealth and County, *D. B. Strench*, to me personally known, who thereupon produced before me the foregoing instrument, and who, being by me duly sworn, says that he is Vice President of Louisville and Nashville Railroad Company, a corporation, that the seal affixed to said instrument is the corporate seal of said corporation, that the instrument was signed and sealed by him on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution and delivery of said instrument was the free act and deed of said corporation.

Witness my hand and notarial seal, this *24th* day of *May*, 1972.

Norman J. Jones
Notary Public

Jefferson County, Kentucky

My commission expires *March 4, 1973*

(NOTARIAL SEAL)

**EXHIBIT C
TO
FINANCE AGREEMENT**

AGREEMENT AND ASSIGNMENT

AGREEMENT AND ASSIGNMENT, dated as of April 1, 1972, by and among General Motors Corporation (Electro-Motive Division), a corporation of the State of Delaware (hereinafter sometimes called "EMD") and General Electric Company, a corporation of the State of New York (hereinafter sometimes called "GE"), (EMD and GE being hereinafter collectively sometimes called the "Sellers", or severally the "Seller"), and The First National Bank of Birmingham, acting as Agent under a Finance Agreement dated as of April 1, 1972 (said Bank being hereinafter called the "Agent"),

WITNESSETH:

Whereas, the Sellers and Louisville and Nashville Railroad Company, a corporation of the Commonwealth of Kentucky (hereinafter called the "Buyer"), entered into a Conditional Sale Agreement, dated as of April 1, 1972 (hereinafter called the "Conditional Sale Agreement"), with respect to 10 2000 H.P. Model GP38AC-2 4-axle diesel-electric road locomotives and 30 3000 H.P. Model U30C 6-axle diesel-electric road locomotives being hereinafter collectively called the "Equipment", all as more particularly described therein, a counterpart of the Conditional Sale Agreement being prefixed hereto.

Now, Therefore, This Agreement and Assignment witnesseth that in consideration of the mutual promises, covenants and agreements hereinafter set forth,

(1) Each Seller hereby sells, assigns, transfers and sets over to the Agent, its successors and assigns, all the right, title and interest of such Seller under the Conditional Sale Agreement (except the right to manufacture and deliver and the right to receive all payments in respect of each unit of Equipment in excess of the Deferred Purchase Price specified in Section 2 of the Conditional Sale Agreement and in reimbursement for taxes paid or incurred as provided in Section 4 thereof and the right to receive the payments specified in the last paragraph of Section 9 thereof) together with all the powers, privileges, immunities

and remedies of each Seller thereunder, and all the right, title and interest of such Seller in and to each of the units of Equipment when and as the same are severally manufactured and delivered and accepted by the Buyer, and, upon payment therefor by the Agent to each Seller of the amounts required to be paid under Section (7) hereof, in and to any and all amounts which may be or become due and owing by the Buyer to such Seller under the Conditional Sale Agreement on account of the Deferred Purchase Price of each unit of Equipment and interest thereon, and in and to any other sums becoming due under the Conditional Sale Agreement, without any recourse, however, to the Sellers, or either of them, for or on account of any failure of payment or compliance with any of the terms or provisions of said Conditional Sale Agreement on the part of the Buyer. In furtherance of the foregoing assignment and transfer, each Seller hereby authorizes and empowers the Agent, in such manner and at such times as the Agent may deem advisable, in the name of such Seller or in the name of the Agent, or in the name of the nominee of the Agent, to ask, demand, sue for, collect, receive and enforce, any and all sums to which the Agent may become entitled under this Agreement and Assignment and compliance by the Buyer with the terms and agreements on the part of the Buyer to be performed under the Conditional Sale Agreement, but without expense and liability to the Sellers, or either of them, and for the sole benefit of the Agent.

(2) Each Seller warrants that as set forth in and subject to the provisions of the Conditional Sale Agreement it has legal title to the units of Equipment to be built by it, free and clear of all liens and encumbrances and subject to no rights or claims of any persons whatsoever except those of the Buyer under the Conditional Sale Agreement, and good right to sell the same.

Each Seller covenants and agrees that, at the time of delivery of each of the units of Equipment to the Buyer, each side of each such unit shall be plainly, distinctly and conspicuously "plated" or marked by stencilling in letters not less than one inch in height with the following words:

"The First National Bank of Birmingham, Agent — Owner".

(3) Each Seller agrees that this Agreement and Assignment will

not transfer or impose upon the Agent, or in any way affect or modify (a) each Seller's obligation to construct the units of Equipment in accordance with the applicable Specifications, and as warranted therein or in said Conditional Sale Agreement set forth, or (b) each Seller's obligations to indemnify the Buyer against and save and keep the Buyer harmless from loss and expense resulting from patent claims, all as set forth in Section 8 of the Conditional Sale Agreement, the said obligations to be and remain enforceable against and only against the Sellers, respectively, as provided in the Conditional Sale Agreement.

(4) Each Seller will indemnify the Agent against and save and keep it harmless from all expense, loss or damage incurred or sustained by the Agent by reason of any defense, set-off or counterclaim of the Buyer, based on any indebtedness or liability at any time owing to the Buyer by said Seller in any suit or action brought by the Agent under the Conditional Sale Agreement. Each Seller agrees to save, indemnify and keep harmless the Agent from and against any and all royalties, damages, claims, suits, judgments and costs that may arise in the use of any patented article on the Equipment at the time of delivery, except with regard to any appliances, devices or materials specified or required by the Buyer and not manufactured by such Seller.

(5) Each Seller covenants and agrees that it will construct the units of Equipment to be built by it in full and complete accordance with the Conditional Sale Agreement and that it will deliver the same on completion thereof to the Buyer free of all claims, liens and encumbrances and in accordance with the provisions of the Conditional Sale Agreement; and that notwithstanding this Agreement and Assignment, it will perform and fully comply with each and all the covenants and conditions of the Conditional Sale Agreement, set forth to be performed and complied with by such Seller.

(6) Each Seller covenants and agrees with the Agent that, upon the request of the Agent, such Seller will execute any and all instruments which may be necessary or proper in order to discharge of record the Conditional Sale Agreement or any other instrument evidencing any interest of such Seller therein or in the Equipment therein described.

(7) The Agent covenants and agrees that upon each Closing Date (as defined in the Conditional Sale Agreement) it will make payment

to such Seller of the Deferred Purchase Price of each unit of Equipment in the Group being settled for, determined as provided in Section 2 of the Conditional Sale Agreement, provided it shall have received the following documents in such number of counterparts or copies as may be reasonably requested:

(a) A bill of sale from the Seller to the Agent, transferring to the Agent title to the units of Equipment so delivered, and warranting to the Agent and to the Buyer that at the time of delivery to the Buyer the Seller had legal title to such Equipment and good and lawful right to sell such Equipment and that title to such Equipment was then free of all claims, liens and encumbrances of any nature except only the rights of the Buyer under the Conditional Sale Agreement;

(b) A certificate of acceptance signed by an authorized representative of the Buyer stating that the Equipment covered by such certificate has been delivered to and accepted by him on behalf of the Buyer as conforming in all respects to the requirements and the provisions of the Conditional Sale Agreement;

(c) A duplicate of the Seller's invoice covering such units of Equipment so accepted, stating the Purchase Price (as then determined) and the Deferred Purchase Price of each of said units of Equipment and acknowledging receipt of payment of the excess of the Purchase Price over the Deferred Purchase Price;

(d) A certificate executed by the Buyer, dated as of the date of acceptance by the Buyer of such units of Equipment, stating that the amounts of the Deferred Purchase Price and the Purchase Price (as then determined) of each of said units of Equipment are the amounts shown on the invoice hereinabove in subparagraph (c) referred to, and that the excess of said Purchase Price over the Deferred Purchase Price has been paid;

(e) An Opinion of Counsel for the Buyer, dated as of such Closing Date, in form acceptable to the Agent and its counsel as specified in Section 9 of the Conditional Sale Agreement;

(f) An Opinion of Counsel for such Seller, dated as of such Closing Date, stating that (i) the Agent is vested with all the rights, titles, interests, powers, privileges and remedies purported

to be assigned to it by this Agreement and Assignment; (ii) title to the units of Equipment in the Group being settled for on such Closing Date is validly vested in the Agent and such units of Equipment, at the time of delivery thereof to the Buyer under the Conditional Sale Agreement, were free of all claims, liens and encumbrances except only the rights of the Buyer under the Conditional Sale Agreement; (iii) such Seller is a duly organized and existing corporation in good standing under the laws of the state of its incorporation and has the power and authority to own its properties and to carry on its business as now conducted; and (iv) the Conditional Sale Agreement and this Agreement and Assignment have been duly authorized, executed and delivered by such Seller and, assuming valid authorization, execution and delivery by the other parties hereto and thereto, are valid instruments binding upon such Seller and enforceable against such Seller in accordance with their respective terms; and

(g) An Opinion, dated as of such Closing Date, of Messrs. Davis Polk & Wardwell, who are acting as special counsel for the Agent and the Investors named in the Finance Agreement, stating that (i) the Conditional Sale Agreement has been duly authorized, executed and delivered by the respective parties thereto and is a valid and binding instrument enforceable in accordance with its terms; (ii) this Agreement and Assignment has been duly authorized, executed and delivered by the respective parties hereto and is a valid and binding instrument and enforceable in accordance with its terms; (iii) the Agent is vested with all the rights, titles, interests, powers, privileges and remedies purported to be assigned to it by this Agreement and Assignment; (iv) title to the Equipment, when each unit thereof was delivered and accepted by the Buyer, was validly vested in the Agent free of all claims, liens and encumbrances except only the rights of the Buyer under the Conditional Sale Agreement; (v) no approval of the Interstate Commerce Commission or any other governmental authority is necessary for the execution and delivery of the Conditional Sale Agreement or this Agreement and Assignment or, if any approval is necessary it has been obtained; and (vi) the Conditional Sale Agreement and this Assignment have been duly filed and recorded with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act and

no other filing or recordation is necessary for the protection of the rights of the Agent in any state of the United States of America or the District of Columbia. In giving such opinions counsel may rely, as to any matters governed by the laws of any jurisdiction other than New York or the United States of America, upon the opinions given pursuant to subparagraphs (e) and (f) above.

In giving the opinions specified in subsection (e), (f) and (g) above, counsel may qualify any opinion to the effect that any agreement is a valid and binding instrument enforceable in accordance with its terms, by a general reference as to limitations as to the enforceability imposed by laws with respect to or affecting remedies and by bankruptcy, insolvency, reorganization, moratorium or other laws affecting the enforcement of creditors' rights generally.

The obligation of the Agent to make payment for any Group of the Equipment is hereby expressly conditioned upon the prior receipt by the Agent, as provided in the Finance Agreement, of all the funds to be furnished to the Agent by the various parties to the Finance Agreement with respect thereto.

The Agent shall not be obligated to make any of the above-mentioned payments at any time while an Event of Default, or any event which with the lapse of time and/or demand provided for in the Conditional Sale Agreement would constitute an Event of Default under the Conditional Sale Agreement, shall have occurred and be continuing. In the event the Agent does not make payment for any Group of Equipment as herein provided, the Agent shall reassign to the Seller, without recourse to the Agent, all right, title and interest of, the Agent in and to such Equipment.

It is understood and agreed that the Agent shall not be required to make any payment in respect of any unit of Equipment excluded from the Conditional Sale Agreement pursuant to subsection (B) of Section 2 thereof. The Agent shall at the request of the Sellers or the Buyer execute or join in the execution of such supplemental agreement as may be deemed necessary or appropriate to exclude any such units of Equipment from the Conditional Sale Agreement and from this Agreement and Assignment.

The term "business days" as used herein means calendar days, excluding Saturdays, Sundays and holidays.

(8) It is mutually agreed that the Agent and any assignee of the Agent may assign, and/or sell interests in, its rights hereunder and

under the Conditional Sale Agreement, as a whole or in part or in respect of all or any one or more of the units of Equipment covered thereby, including the right to receive any payments due or to become due to it from the Buyer under the Conditional Sale Agreement in respect of such Equipment. In the event of any such assignment or sale, any such subsequent or successive assignee or assignees or purchasers shall, to the extent of such assignment or sale, enjoy all the rights and privileges and be subject to all the obligations of the Agent hereunder.

(9) Each Seller hereby:

(a) represents and warrants to the Agent, its successors and assigns that the Conditional Sale Agreement was duly authorized, lawfully executed and delivered by it for a valid consideration, and that assuming valid authorization, execution and delivery by the other parties thereto, the Conditional Sale Agreement is a valid, existing Agreement binding upon such parties in accordance with its terms, and that there has been no amendment thereto; and

(b) covenants and agrees that it will from time to time and at all times, at the request of the Agent or its successors or assigns, make, execute and deliver all such further instruments of assignment, transfer and assurance and do such further acts and things as may be necessary and appropriate in the premises, to give effect to the provisions hereinabove set forth and more perfectly to confirm the rights, titles and interests hereby assigned and transferred to the Agent or intended so to be.

(10) This Agreement and Assignment may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts, together, shall constitute but one and the same instrument. Agent agrees to deliver one of such counterparts, or a certified copy thereof, to the Buyer. Although this Assignment is dated for convenience as of the date first above written, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

(11) No delay in exercising, or failure to exercise or partial exercise of any of the rights of the Agent under this Agreement and Assign-

ment shall operate as a waiver thereof. In no event shall any notice to or demand on the Sellers, or either of them, be deemed a waiver of any obligation of the Sellers to comply without notice or demand with all the terms, conditions and agreements herein contained, or a waiver of any right of the Agent to take further action as herein provided without notice or demand, nor in any event shall any waiver or consent on the part of the Agent be effective unless in writing, and then only with respect to the specific instance for which the same is given.

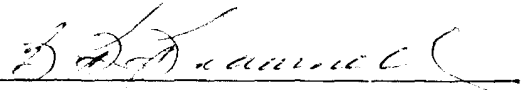
(12) Each reference herein to the Agent shall in every instance, except where the context otherwise requires, be deemed to include its successors and assigns, in whose favor the provisions hereof shall likewise inure; and all provisions hereof shall be binding upon the Sellers and their successors and assigns.

(13) The terms of this Agreement and Assignment and all rights and obligations hereunder shall be governed by the laws of the Commonwealth of Kentucky; *provided, however*, that the parties hereto shall be entitled to all rights conferred by Section 20c of the Interstate Commerce Act. This Agreement and Assignment, and all rights and obligations hereunder, is intended to create and to perpetuate and assign, and shall be treated as, a security interest in said Equipment for the indebtedness of the Buyer under the Conditional Sale Agreement and under this Agreement and Assignment as the term "security interest" is described under the Uniform Commercial Code heretofore adopted by the Commonwealth of Kentucky.

IN WITNESS WHEREOF, each Seller and the Agent have caused this instrument to be executed in their respective names by their respective officers or officials thereunto duly authorized, and have caused their respective corporate seals to be affixed, duly attested, as of the day and year first above written.

GENERAL MOTORS CORPORATION
(Electro-Motive Division)

(Corporate seal)

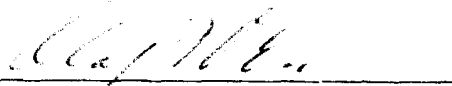
By 
Vice President

ATTEST:



Assistant Secretary

GENERAL ELECTRIC COMPANY

(Corporate seal)

By 
General Manager
Locomotive Products Department

ATTEST:

Attesting Secretary


LOUISVILLE AND NASHVILLE
RAILROAD COMPANY

(Corporate seal)

By 
Vice President


ATTEST:


Assistant Secretary

STATE OF ILLINOIS }
COUNTY OF COOK } ss:

The undersigned, a Notary Public for the State and County afore-said, certifies that, on the date hereinafter stated, personally appeared before me in said State and County, **B. B. BROWNELL**, to me personally known, who thereupon produced before me the foregoing instrument, and who, being by me duly sworn, says that he is Vice President of General Motors Corporation (Electro-Motive Division), a corporation, that the seal affixed to said instrument is the corporate seal of said corporation, that said instrument was signed and sealed by him on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution and delivery of said instrument was the free act and deed of said corporation.

Witness my hand and notarial seal, this *21* day of *May*, 1972.


Notary Public
Cook County, Illinois

My Commission expires October 28, 1975

(NOTARIAL SEAL)

COMMONWEALTH OF PENNSYLVANIA }
COUNTY OF ERIE } ss:

The undersigned, a Notary Public for the Commonwealth and County aforesaid, certifies that, on the date hereinafter stated, personally appeared before me in said Commonwealth and County, Olaf Veal, to me personally known, who thereupon produced before me the foregoing instrument, and who, being by me duly sworn, says that he is General Manager — Locomotive Products Department, of General Electric Company, a corporation, that the seal affixed to said instrument is the corporate seal of said corporation, that said instrument was signed and sealed by him on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution and delivery of said instrument was the free act and deed of said corporation.

Witness my hand and notarial seal, this 25th day of May, 1972.

Anthony J. Harkness

Notary Public

Commonwealth of Pennsylvania

My Commission expires

(NOTARIAL SEAL)

NOTARY PUBLIC, PENNSYLVANIA
 My Commission Expires May 1, 1975

COMMONWEALTH OF KENTUCKY }
COUNTY OF JEFFERSON } ss:

The undersigned, a Notary Public for the Commonwealth and County aforesaid, certifies that, on the date hereinafter stated, personally appeared before me in said Commonwealth and County, *D. B. Strench*, to me personally known, who thereupon produced before me the foregoing instrument, and who, being by me duly sworn, says that he is Vice President of Louisville and Nashville Railroad Company, a corporation, that the seal affixed to said instrument is the corporate seal of said corporation, that the instrument was signed and sealed by him on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution and delivery of said instrument was the free act and deed of said corporation.

Witness my hand and notarial seal, this *24th* day of *May*, 1972.

Norman J. Jones
Notary Public

Jefferson County, Kentucky
My commission expires *March 4, 1973*

(NOTARIAL SEAL)

**EXHIBIT C
TO
FINANCE AGREEMENT**

AGREEMENT AND ASSIGNMENT

AGREEMENT AND ASSIGNMENT, dated as of April 1, 1972, by and among General Motors Corporation (Electro-Motive Division), a corporation of the State of Delaware (hereinafter sometimes called "EMD") and General Electric Company, a corporation of the State of New York (hereinafter sometimes called "GE"), (EMD and GE being hereinafter collectively sometimes called the "Sellers", or severally the "Seller"), and The First National Bank of Birmingham, acting as Agent under a Finance Agreement dated as of April 1, 1972 (said Bank being hereinafter called the "Agent"),

WITNESSETH:

Whereas, the Sellers and Louisville and Nashville Railroad Company, a corporation of the Commonwealth of Kentucky (hereinafter called the "Buyer"), entered into a Conditional Sale Agreement, dated as of April 1, 1972 (hereinafter called the "Conditional Sale Agreement"), with respect to 10 2000 H.P. Model GP38AC-2 4-axle diesel-electric road locomotives and 30 3000 H.P. Model U30C 6-axle diesel-electric road locomotives being hereinafter collectively called the "Equipment", all as more particularly described therein, a counterpart of the Conditional Sale Agreement being prefixed hereto.

Now, Therefore, This Agreement and Assignment witnesseth that in consideration of the mutual promises, covenants and agreements hereinafter set forth,

(1) Each Seller hereby sells, assigns, transfers and sets over to the Agent, its successors and assigns, all the right, title and interest of such Seller under the Conditional Sale Agreement (except the right to manufacture and deliver and the right to receive all payments in respect of each unit of Equipment in excess of the Deferred Purchase Price specified in Section 2 of the Conditional Sale Agreement and in reimbursement for taxes paid or incurred as provided in Section 4 thereof and the right to receive the payments specified in the last paragraph of Section 9 thereof) together with all the powers, privileges, immunities

and remedies of each Seller thereunder, and all the right, title and interest of such Seller in and to each of the units of Equipment when and as the same are severally manufactured and delivered and accepted by the Buyer, and, upon payment therefor by the Agent to each Seller of the amounts required to be paid under Section (7) hereof, in and to any and all amounts which may be or become due and owing by the Buyer to such Seller under the Conditional Sale Agreement on account of the Deferred Purchase Price of each unit of Equipment and interest thereon, and in and to any other sums becoming due under the Conditional Sale Agreement, without any recourse, however, to the Sellers, or either of them, for or on account of any failure of payment or compliance with any of the terms or provisions of said Conditional Sale Agreement on the part of the Buyer. In furtherance of the foregoing assignment and transfer, each Seller hereby authorizes and empowers the Agent, in such manner and at such times as the Agent may deem advisable, in the name of such Seller or in the name of the Agent, or in the name of the nominee of the Agent, to ask, demand, sue for, collect, receive and enforce, any and all sums to which the Agent may become entitled under this Agreement and Assignment and compliance by the Buyer with the terms and agreements on the part of the Buyer to be performed under the Conditional Sale Agreement, but without expense and liability to the Sellers, or either of them, and for the sole benefit of the Agent.

(2) Each Seller warrants that as set forth in and subject to the provisions of the Conditional Sale Agreement it has legal title to the units of Equipment to be built by it, free and clear of all liens and encumbrances and subject to no rights or claims of any persons whatsoever except those of the Buyer under the Conditional Sale Agreement, and good right to sell the same.

Each Seller covenants and agrees that, at the time of delivery of each of the units of Equipment to the Buyer, each side of each such unit shall be plainly, distinctly and conspicuously "plated" or marked by stencilling in letters not less than one inch in height with the following words:

"The First National Bank of Birmingham, Agent — Owner".

(3) Each Seller agrees that this Agreement and Assignment will

not transfer or impose upon the Agent, or in any way affect or modify (a) each Seller's obligation to construct the units of Equipment in accordance with the applicable Specifications, and as warranted therein or in said Conditional Sale Agreement set forth, or (b) each Seller's obligations to indemnify the Buyer against and save and keep the Buyer harmless from loss and expense resulting from patent claims, all as set forth in Section 8 of the Conditional Sale Agreement, the said obligations to be and remain enforceable against and only against the Sellers, respectively, as provided in the Conditional Sale Agreement.

(4) Each Seller will indemnify the Agent against and save and keep it harmless from all expense, loss or damage incurred or sustained by the Agent by reason of any defense, set-off or counterclaim of the Buyer, based on any indebtedness or liability at any time owing to the Buyer by said Seller in any suit or action brought by the Agent under the Conditional Sale Agreement. Each Seller agrees to save, indemnify and keep harmless the Agent from and against any and all royalties, damages, claims, suits, judgments and costs that may arise in the use of any patented article on the Equipment at the time of delivery, except with regard to any appliances, devices or materials specified or required by the Buyer and not manufactured by such Seller.

(5) Each Seller covenants and agrees that it will construct the units of Equipment to be built by it in full and complete accordance with the Conditional Sale Agreement and that it will deliver the same on completion thereof to the Buyer free of all claims, liens and encumbrances and in accordance with the provisions of the Conditional Sale Agreement; and that notwithstanding this Agreement and Assignment, it will perform and fully comply with each and all the covenants and conditions of the Conditional Sale Agreement, set forth to be performed and complied with by such Seller.

(6) Each Seller covenants and agrees with the Agent that, upon the request of the Agent, such Seller will execute any and all instruments which may be necessary or proper in order to discharge of record the Conditional Sale Agreement or any other instrument evidencing any interest of such Seller therein or in the Equipment therein described.

(7) The Agent covenants and agrees that upon each Closing Date (as defined in the Conditional Sale Agreement) it will make payment

to such Seller of the Deferred Purchase Price of each unit of Equipment in the Group being settled for, determined as provided in Section 2 of the Conditional Sale Agreement, provided it shall have received the following documents in such number of counterparts or copies as may be reasonably requested:

(a) A bill of sale from the Seller to the Agent, transferring to the Agent title to the units of Equipment so delivered, and warranting to the Agent and to the Buyer that at the time of delivery to the Buyer the Seller had legal title to such Equipment and good and lawful right to sell such Equipment and that title to such Equipment was then free of all claims, liens and encumbrances of any nature except only the rights of the Buyer under the Conditional Sale Agreement;

(b) A certificate of acceptance signed by an authorized representative of the Buyer stating that the Equipment covered by such certificate has been delivered to and accepted by him on behalf of the Buyer as conforming in all respects to the requirements and the provisions of the Conditional Sale Agreement;

(c) A duplicate of the Seller's invoice covering such units of Equipment so accepted, stating the Purchase Price (as then determined) and the Deferred Purchase Price of each of said units of Equipment and acknowledging receipt of payment of the excess of the Purchase Price over the Deferred Purchase Price;

(d) A certificate executed by the Buyer, dated as of the date of acceptance by the Buyer of such units of Equipment, stating that the amounts of the Deferred Purchase Price and the Purchase Price (as then determined) of each of said units of Equipment are the amounts shown on the invoice hereinabove in subparagraph (c) referred to, and that the excess of said Purchase Price over the Deferred Purchase Price has been paid;

(e) An Opinion of Counsel for the Buyer, dated as of such Closing Date, in form acceptable to the Agent and its counsel as specified in Section 9 of the Conditional Sale Agreement;

(f) An Opinion of Counsel for such Seller, dated as of such Closing Date, stating that (i) the Agent is vested with all the rights, titles, interests, powers, privileges and remedies purported

to be assigned to it by this Agreement and Assignment; (ii) title to the units of Equipment in the Group being settled for on such Closing Date is validly vested in the Agent and such units of Equipment, at the time of delivery thereof to the Buyer under the Conditional Sale Agreement, were free of all claims, liens and encumbrances except only the rights of the Buyer under the Conditional Sale Agreement; (iii) such Seller is a duly organized and existing corporation in good standing under the laws of the state of its incorporation and has the power and authority to own its properties and to carry on its business as now conducted; and (iv) the Conditional Sale Agreement and this Agreement and Assignment have been duly authorized, executed and delivered by such Seller and, assuming valid authorization, execution and delivery by the other parties hereto and thereto, are valid instruments binding upon such Seller and enforceable against such Seller in accordance with their respective terms; and

(g) An Opinion, dated as of such Closing Date, of Messrs. Davis Polk & Wardwell, who are acting as special counsel for the Agent and the Investors named in the Finance Agreement, stating that (i) the Conditional Sale Agreement has been duly authorized, executed and delivered by the respective parties thereto and is a valid and binding instrument enforceable in accordance with its terms; (ii) this Agreement and Assignment has been duly authorized, executed and delivered by the respective parties hereto and is a valid and binding instrument and enforceable in accordance with its terms; (iii) the Agent is vested with all the rights, titles, interests, powers, privileges and remedies purported to be assigned to it by this Agreement and Assignment; (iv) title to the Equipment, when each unit thereof was delivered and accepted by the Buyer, was validly vested in the Agent free of all claims, liens and encumbrances except only the rights of the Buyer under the Conditional Sale Agreement; (v) no approval of the Interstate Commerce Commission or any other governmental authority is necessary for the execution and delivery of the Conditional Sale Agreement or this Agreement and Assignment or, if any approval is necessary it has been obtained; and (vi) the Conditional Sale Agreement and this Assignment have been duly filed and recorded with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act and

no other filing or recordation is necessary for the protection of the rights of the Agent in any state of the United States of America or the District of Columbia. In giving such opinions counsel may rely, as to any matters governed by the laws of any jurisdiction other than New York or the United States of America, upon the opinions given pursuant to subparagraphs (e) and (f) above.

In giving the opinions specified in subsection (e), (f) and (g) above, counsel may qualify any opinion to the effect that any agreement is a valid and binding instrument enforceable in accordance with its terms, by a general reference as to limitations as to the enforceability imposed by laws with respect to or affecting remedies and by bankruptcy, insolvency, reorganization, moratorium or other laws affecting the enforcement of creditors' rights generally.

The obligation of the Agent to make payment for any Group of the Equipment is hereby expressly conditioned upon the prior receipt by the Agent, as provided in the Finance Agreement, of all the funds to be furnished to the Agent by the various parties to the Finance Agreement with respect thereto.

The Agent shall not be obligated to make any of the above-mentioned payments at any time while an Event of Default, or any event which with the lapse of time and/or demand provided for in the Conditional Sale Agreement would constitute an Event of Default under the Conditional Sale Agreement, shall have occurred and be continuing. In the event the Agent does not make payment for any Group of Equipment as herein provided, the Agent shall reassign to the Seller, without recourse to the Agent, all right, title and interest of, the Agent in and to such Equipment.

It is understood and agreed that the Agent shall not be required to make any payment in respect of any unit of Equipment excluded from the Conditional Sale Agreement pursuant to subsection (B) of Section 2 thereof. The Agent shall at the request of the Sellers or the Buyer execute or join in the execution of such supplemental agreement as may be deemed necessary or appropriate to exclude any such units of Equipment from the Conditional Sale Agreement and from this Agreement and Assignment.

The term "business days" as used herein means calendar days, excluding Saturdays, Sundays and holidays.

(8) It is mutually agreed that the Agent and any assignee of the Agent may assign, and/or sell interests in, its rights hereunder and

under the Conditional Sale Agreement, as a whole or in part or in respect of all or any one or more of the units of Equipment covered thereby, including the right to receive any payments due or to become due to it from the Buyer under the Conditional Sale Agreement in respect of such Equipment. In the event of any such assignment or sale, any such subsequent or successive assignee or assignees or purchasers shall, to the extent of such assignment or sale, enjoy all the rights and privileges and be subject to all the obligations of the Agent hereunder.

(9) Each Seller hereby:

(a) represents and warrants to the Agent, its successors and assigns that the Conditional Sale Agreement was duly authorized, lawfully executed and delivered by it for a valid consideration, and that assuming valid authorization, execution and delivery by the other parties thereto, the Conditional Sale Agreement is a valid, existing Agreement binding upon such parties in accordance with its terms, and that there has been no amendment thereto; and

(b) covenants and agrees that it will from time to time and at all times, at the request of the Agent or its successors or assigns, make, execute and deliver all such further instruments of assignment, transfer and assurance and do such further acts and things as may be necessary and appropriate in the premises, to give effect to the provisions hereinabove set forth and more perfectly to confirm the rights, titles and interests hereby assigned and transferred to the Agent or intended so to be.

(10) This Agreement and Assignment may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts, together, shall constitute but one and the same instrument. Agent agrees to deliver one of such counterparts, or a certified copy thereof, to the Buyer. Although this Assignment is dated for convenience as of the date first above written, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

(11) No delay in exercising, or failure to exercise or partial exercise of any of the rights of the Agent under this Agreement and Assign-

ment shall operate as a waiver thereof. In no event shall any notice to or demand on the Sellers, or either of them, be deemed a waiver of any obligation of the Sellers to comply without notice or demand with all the terms, conditions and agreements herein contained, or a waiver of any right of the Agent to take further action as herein provided without notice or demand, nor in any event shall any waiver or consent on the part of the Agent be effective unless in writing, and then only with respect to the specific instance for which the same is given.

(12) Each reference herein to the Agent shall in every instance, except where the context otherwise requires, be deemed to include its successors and assigns, in whose favor the provisions hereof shall likewise inure; and all provisions hereof shall be binding upon the Sellers and their successors and assigns.

(13) The terms of this Agreement and Assignment and all rights and obligations hereunder shall be governed by the laws of the Commonwealth of Kentucky; *provided, however*, that the parties hereto shall be entitled to all rights conferred by Section 20c of the Interstate Commerce Act. This Agreement and Assignment, and all rights and obligations hereunder, is intended to create and to perpetuate and assign, and shall be treated as, a security interest in said Equipment for the indebtedness of the Buyer under the Conditional Sale Agreement and under this Agreement and Assignment as the term "security interest" is described under the Uniform Commercial Code heretofore adopted by the Commonwealth of Kentucky.

IN WITNESS WHEREOF, each Seller and the Agent have caused this instrument to be executed in their respective names by their respective officers or officials thereunto duly authorized, and have caused their respective corporate seals to be affixed, duly attested, as of the day and year first above written.

GENERAL MOTORS CORPORATION
(ELECTRO-MOTIVE DIVISION)

By


Vice President

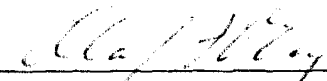
(CORPORATE SEAL)

ATTEST:


Assistant Secretary

GENERAL ELECTRIC COMPANY

By


General Manager
Locomotive Products Department

(CORPORATE SEAL)

ATTEST:


Attesting Secretary

THE FIRST NATIONAL BANK
OF BIRMINGHAM, Agent

By


Vice President

(CORPORATE SEAL)


ATTEST:


Assistant Cashier

STATE OF ILLINOIS }
COUNTY OF COOK } ss:

The undersigned, a Notary Public for the State and County afore-
said, certifies that, on the date hereinafter stated, personally appeared
before me in said State and County, **B. B. BROWNELL**,
to me personally known, who thereupon produced before me the
foregoing instrument, and who, being by me duly sworn, says ~~that he~~
is Vice President of General Motors Corporation (Electro-Motive
Division), a corporation, that the seal affixed to said instrument is the
corporate seal of said corporation, that said ~~instrument~~ was signed
and sealed by him on behalf of said corporation by authority of its
Board of Directors, and he acknowledged that the execution and de-
livery of said ~~instrument~~ was the free act and deed of said corporation.

Witness my hand and notarial seal, this 21 day of May, 1972.


Notary Public
Cook County, Illinois
My Commission expires October 23, 1975

(NOTARIAL SEAL)

COMMONWEALTH OF PENNSYLVANIA }
COUNTY OF ERIE } ss:

The undersigned, a Notary Public for the Commonwealth and County aforesaid, certifies that, on the date hereinafter stated, personally appeared before me in said Commonwealth and County, Olaf Vea, to me personally known, who thereupon produced before me the foregoing instrument, and who, being by me duly sworn, says that he is General Manager — Locomotive Products Department, of General Electric Company, a corporation, that the seal affixed to said instrument is the corporate seal of said corporation, that said instrument was signed and sealed by him on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution and delivery of said instrument was the free act and deed of said corporation.

Witness my hand and notarial seal, this 25th day of May, 1972.

Madrey A. Prohmnick
Notary Public

Commonwealth of Pennsylvania
My Commission expires

(NOTARIAL SEAL)

MADREY A. PROHMNICK, NOTARY PUBLIC
ERIE COUNTY, PENNSYLVANIA
MY COMMISSION EXPIRES MAY 5, 1972

STATE OF ALABAMA

COUNTY OF JEFFERSON

SS:

The undersigned, a Notary Public for the State and County aforesaid, certifies that, on the date hereinafter stated, personally appeared before me in said State and County, *Stanley M. Endreick* to me personally known, who thereupon produced before me the foregoing instrument, and who, being by me duly sworn, says that he is Vice President of The First National Bank of Birmingham, Agent, a national banking association, that the seal affixed to said instrument is the corporate seal of said association, that said instrument was signed and sealed by him on behalf of said association by authority of its Board of Directors, and he acknowledged that the execution and delivery of said instrument was the free act and deed of said association.

Witness my hand and notarial seal, this *26th* day of *May*, 1972.

Sylvia B. White

Notary Public

Jefferson County, Alabama

My Commission expires

(NOTARIAL SEAL)

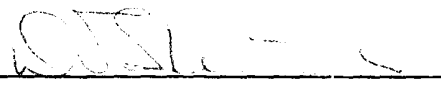
Notary Public, Alabama State at Large
My commission expires Dec. 7, 1974
Bonded by Home Indemnity Co. of N. Y.

ACKNOWLEDGMENT OF NOTICE OF ASSIGNMENT

Receipt of a copy of, and due notice of, the Assignment made by the foregoing Agreement and Assignment is hereby acknowledged as of *May 26*, 1972.

LOUISVILLE AND NASHVILLE RAILROAD
COMPANY

By



Vice President